



General Assembly

Substitute Bill No. 5272

February Session, 2014



**AN ACT CONSOLIDATING CERTIFIED HISTORIC STRUCTURE
REHABILITATION TAX CREDITS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective July 1, 2014, and applicable to income years*
2 *commencing on or after January 1, 2014*) (a) As used in this section, the
3 following terms shall have the following meanings unless the context
4 clearly indicates another meaning:

5 (1) "Officer" means the State Historic Preservation Officer
6 designated pursuant to 36 CFR 61.2;

7 (2) "Certified historic structure" means any property that: (A) Is
8 listed individually on the National or State Register of Historic Places,
9 or (B) is located in a district listed on the National or State Register of
10 Historic Places and has been certified by the officer as contributing to
11 the historic character of such district;

12 (3) "Certified rehabilitation" means any rehabilitation of a certified
13 historic structure for (A) residential use of five units or more, (B)
14 mixed residential and nonresidential uses, or (C) nonresidential use
15 consistent with the historic character of such property or the district in
16 which such property is located, as determined by regulations adopted
17 by the Department of Economic and Community Development;

18 (4) "Owner" means any person, firm, limited liability company,
19 nonprofit or for-profit corporation or other business entity or
20 municipality that possesses title to an historic structure and that
21 undertakes the rehabilitation of such structure;

22 (5) "Placed in service" means the completion of substantial
23 rehabilitation work that would allow for issuance of a certificate of
24 occupancy for the entire building or for an identifiable portion of the
25 building;

26 (6) "Qualified rehabilitation expenditures" means any costs incurred
27 for the physical construction involved in the rehabilitation of a
28 certified historic structure, excluding: (A) The owner's personal labor,
29 (B) the cost of a new addition, except as required to comply with any
30 provision of the State Building Code or the Fire Safety Code, and (C)
31 any nonconstruction cost such as architectural fees, legal fees and
32 financing fees;

33 (7) "Rehabilitation plan" means any narrative, construction plans
34 and specifications for the proposed rehabilitation of a certified historic
35 structure in sufficient detail for evaluation of compliance with the
36 Secretary of the Interior's Standards for Rehabilitation, as established
37 in 36 CFR 67;

38 (8) "Substantial rehabilitation" or "substantially rehabilitate" means
39 the qualified rehabilitation expenditures of a certified historic structure
40 that exceed twenty-five per cent of the assessed value of such
41 structure; and

42 (9) "Affordable housing" has the same meaning as provided in
43 section 8-39a of the general statutes.

44 (b) (1) The Department of Economic and Community Development
45 shall administer a system of tax credit vouchers within the resources,
46 requirements and purposes of this section for owners rehabilitating
47 certified historic structures.

48 (2) The credit authorized by this section shall be available in the tax
49 year in which the substantially rehabilitated certified historic structure
50 is placed in service. In the case of projects completed in phases, the tax
51 credit shall be prorated to the substantially rehabilitated identifiable
52 portion of the building placed in service. If the tax credit is more than
53 the amount owed by the taxpayer for the year in which the
54 substantially rehabilitated certified historic structure is placed in
55 service, the amount that is more than the taxpayer's tax liability may be
56 carried forward and credited against the taxes imposed for the
57 succeeding five years or until the full credit is used, whichever occurs
58 first.

59 (3) In the case of projects completed in phases, the Department of
60 Economic and Community Development may issue vouchers for the
61 substantially rehabilitated identifiable portion of the building placed in
62 service.

63 (4) Any credits allowed under this section that are provided to
64 multiple owners of certified historic structures shall be passed through
65 to persons designated as partners, members or owners, pro rata or
66 pursuant to an agreement among such persons designated as partners,
67 members or owners documenting an alternative distribution method
68 without regard to other tax or economic attributes of such entity.

69 (5) Any owner entitled to a credit under this section may sell,
70 assign, or otherwise transfer such credit, in whole or in part, to one or
71 more persons, as defined in section 12-1 of the general statutes,
72 provided any credit, after issuance, may be sold, assigned or otherwise
73 transferred, in whole or in part, not more than three times. Such
74 person shall be entitled to offset the tax imposed under chapter 207,
75 208, 209, 210, 211 or 212 of the general statutes as if such transferee had
76 incurred the qualified rehabilitation expenditure.

77 (6) If a credit under this section is sold, assigned or otherwise
78 transferred, whether by the owner or any subsequent transferee, the
79 transferor and transferee shall jointly submit written notification of

80 such transfer to the Department of Economic and Community
81 Development not later than thirty days after such transfer. The
82 notification after each transfer shall include the credit voucher number,
83 the date of transfer, the amount of such credit transferred, the tax
84 credit balance before and after the transfer, the tax identification
85 numbers for both the transferor and the transferee, and any other
86 information required by the department. Failure to comply with this
87 subsection shall result in a disallowance of the tax credit until there is
88 full compliance on the part of the transferor and the transferee, and for
89 a second or third transfer, on the part of all subsequent transferors and
90 transferees.

91 (7) The Department of Economic and Community Development
92 shall provide a list to the Commissioner of Revenue Services, on an
93 annual basis, detailing the credits that have been approved for the
94 most recent fiscal year and all sales, assignments and transfers thereof
95 that were made under this section for said year.

96 (c) The Department of Economic and Community Development
97 may adopt regulations, in accordance with chapter 54 of the general
98 statutes to carry out the purposes of this section. Such regulations shall
99 include provisions for the filing of applications, rating criteria and for
100 timely approval by the department.

101 (d) For the purpose of seeking a tax credit pursuant to subsection (b)
102 of this section, prior to beginning any rehabilitation work on a certified
103 historic structure, the owner shall submit to the officer (1) (A) a
104 rehabilitation plan for a determination of whether such rehabilitation
105 work meets the Secretary of the Interior's Standards for Rehabilitation,
106 as established in 36 CFR 67, and (B) if such rehabilitation work is
107 planned to be undertaken in phases, a complete description of each
108 such phase, with anticipated schedules for completion; (2) an estimate
109 of the qualified rehabilitation expenditures; and (3) for projects
110 pursuant to subdivision (2) of subsection (e) of this section, (A) the
111 number of units of affordable housing to be created, (B) the proposed
112 rents or sale prices of such units, and (C) the median income for the

113 municipality where the project is located. For projects pursuant to
114 subdivision (2) of subsection (e) of this section, the owner shall submit
115 a copy of data required under subdivision (3) of this subsection to the
116 Department of Housing.

117 (e) If the officer certifies that the rehabilitation plan conforms to the
118 Secretary of the Interior's Standards for Rehabilitation, as established
119 in 36 CFR 67, the Department of Economic and Community
120 Development shall reserve for the benefit of the owner an allocation
121 for a tax credit equivalent to (1) twenty-five per cent of the projected
122 qualified rehabilitation expenditures, or (2) thirty per cent of the
123 projected qualified rehabilitation expenditures if (A) at least twenty
124 per cent of the units are rental units and qualify as affordable housing,
125 or (B) at least ten per cent of the units are individual homeownership
126 units and qualify as affordable housing. No tax credit shall be allocated
127 for the purposes of subdivision (2) of this subsection unless an
128 applicant received a certificate from the Commissioner of Housing
129 pursuant to section 8-37*lll* of the general statutes, as amended by this
130 act, confirming that the project complies with the definition of
131 affordable housing under section 8-39a of the general statutes.

132 (f) Following the completion of rehabilitation of a certified historic
133 structure in its entirety or in phases to an identifiable portion of the
134 building, any owner who seeks a tax credit pursuant to subsection (b)
135 of this section shall notify the officer that such rehabilitation is
136 complete. Such owner shall provide the officer with documentation of
137 work performed on the certified historic structure and shall submit
138 certification of the costs incurred in rehabilitating the certified historic
139 structure. The officer shall review such rehabilitation and verify its
140 compliance with the rehabilitation plan. Following such verification,
141 the Department of Economic and Community Development shall issue
142 a tax credit voucher to such owner or to the taxpayer named by such
143 owner as contributing to the rehabilitation. The tax credit voucher shall
144 be in an amount equivalent to the lesser of the tax credit reserved upon
145 certification of the rehabilitation plan under the provisions of

146 subsection (e) of this section or (1) twenty-five per cent of the actual
147 qualified rehabilitation expenditures, or (2) for projects including
148 affordable housing pursuant to subdivision (2) of subsection (e) of this
149 section, thirty per cent of the actual qualified rehabilitation
150 expenditures. In order to obtain a credit against any state tax due that
151 is specified in subsection (g) of this section, the holder of the tax credit
152 voucher shall file the voucher with the holder's state tax return.

153 (g) The Commissioner of Revenue Services shall grant a tax credit to
154 a taxpayer holding the tax credit voucher issued in accordance with
155 subsections (b) to (i), inclusive, of this section against any tax due
156 under chapter 207, 208, 209, 210, 211 or 212 of the general statutes in
157 the amount specified in the tax credit voucher. Such taxpayer shall
158 submit the voucher and the corresponding tax return to the
159 Department of Revenue Services.

160 (h) The Department of Economic and Community Development
161 may charge an application fee in an amount not to exceed ten
162 thousand dollars to cover the cost of administering the program
163 established pursuant to this section.

164 (i) The aggregate amount of all tax credits that may be reserved by
165 the Department of Economic and Community Development upon
166 certification of rehabilitation plans pursuant to subsections (b) to (h),
167 inclusive, of this section shall not exceed thirty-one million seven
168 hundred thousand dollars in any fiscal year. No project may receive
169 tax credits in an amount exceeding four million five hundred thousand
170 dollars.

171 (j) On or before October 1, 2015, and annually thereafter, the
172 Department of Economic and Community Development shall report,
173 in accordance with section 11-4a of the general statutes, the total
174 amount of historic preservation tax credits and affordable housing tax
175 credits reserved for the previous fiscal year pursuant to subsections (b)
176 to (i), inclusive, of this section, to the joint standing committees of the
177 General Assembly having cognizance of matters relating to commerce

178 and finance, revenue and bonding. Each such report shall include the
179 following information for each project for which a tax credit has been
180 reserved: (1) The total project costs, (2) the value of the tax credit
181 reservation for the purpose of historic preservation, (3) a statement
182 whether the reservation is for mixed-use and if so, the proportion of
183 the project that is not residential, and (4) the number of residential
184 units to be created, and, for affordable housing reservations, the value
185 of the reservation and percentage of residential units that will qualify
186 as affordable housing.

187 Sec. 2. Section 8-37lll of the general statutes is repealed and the
188 following is substituted in lieu thereof (*Effective July 1, 2014*):

189 (a) The Commissioner of Housing shall review applications for
190 affordable housing tax credits submitted pursuant to subsection (e) of
191 section 10-416b or subsection (d) of section 1 of this act. Upon
192 determination that an application contains affordable housing, [as
193 required by said section] the commissioner shall issue a certificate to
194 that effect. The commissioner shall monitor projects certified under
195 this section to ensure that the affordable housing units are maintained
196 as affordable for a minimum of ten years and may require deed
197 restrictions or other fiscal mechanisms designed to ensure compliance
198 with project requirements. The commissioner may impose a fee in an
199 amount not exceeding two thousand dollars to cover the cost of
200 reviewing applications and monitoring projects that qualify for
201 affordable housing tax credits pursuant to subsections (a) to (j),
202 inclusive, of section 10-416b or subsections (b) to (i), inclusive, of
203 section 1 of this act.

204 (b) The Commissioner of Housing may adopt regulations, pursuant
205 to chapter 54, for monitoring of projects that qualify for affordable
206 housing tax credits pursuant to subsections (a) to (j), inclusive, of
207 section 10-416b or subsections (b) to (i), inclusive, of section 1 of this
208 act by the Department of Housing, or by local housing authorities,
209 municipalities, other public agencies or quasi-public agencies, as
210 defined in section 1-120, designated by the department. Such

211 regulations shall include provisions for ensuring that affordable units
 212 developed under subdivision (3) of subsection (e) of section 10-416b or
 213 subdivision (3) of subsection (d) of section 1 of this act are maintained
 214 as affordable for a minimum of ten years and may require deed
 215 restrictions or other fiscal mechanisms designed to ensure compliance
 216 with project requirements.

217 Sec. 3. Section 10-416a of the general statutes is amended by adding
 218 subsection (k) as follows (*Effective July 1, 2014*):

219 (NEW) (k) Notwithstanding subsection (f) of this section, no tax
 220 credit shall be reserved under this section on or after July 1, 2014.

221 Sec. 4. Section 10-416b of the general statutes is amended by adding
 222 subsection (n) as follows (*Effective July 1, 2014*):

223 (NEW) (n) Notwithstanding subsection (f) of this section, no tax
 224 credit shall be reserved under this section on or after July 1, 2014.

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| This act shall take effect as follows and shall amend the following sections: | | |
| Section 1 | <i>July 1, 2014, and applicable to income years commencing on or after January 1, 2014</i> | New section |
| Sec. 2 | <i>July 1, 2014</i> | 8-37lll |
| Sec. 3 | <i>July 1, 2014</i> | 10-416a |
| Sec. 4 | <i>July 1, 2014</i> | 10-416b |

Statement of Legislative Commissioners:

In section 1, in subsection (d), "For the purpose of seeking a tax credit pursuant to subsection (b) of this section," was inserted before "Prior" for clarity; in subsection (e), the phrase "for the purposes of this subdivision" was changed to "for the purposes of subdivision (2) of this subsection" for clarity; in subsection (f), in the first sentence, "who seeks a tax credit pursuant to subsection (b) of this section" was inserted after "any owner" for clarity; and in subsections (i) and (j),

"subsections (a)" was changed to "subsections (b)" for consistency. In subsection (a) of section 8-37lll, in the second sentence, brackets were inserted around "as required by said section" for clarity and consistency with the provisions of section 1 and section 10-416b of the general statutes; and in subsections (a) and (b), "subsections (a) to (i)" was changed to "subsections (b) to (i)" for consistency.

CE *Joint Favorable Subst.*